

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ELGRET LORENZO BURDEX,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-22-233-D
)	
GINA LOWE, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This matter is before the Court for review of the Report and Recommendation issued by United States Magistrate Judge Suzanne Mitchell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Mitchell recommends the dismissal of this civil rights action without prejudice because Plaintiff's pleadings fail to satisfy Fed. R. Civ. P. 8(a) and because Plaintiff seeks relief that is not available under 42 U.S.C. § 1983.

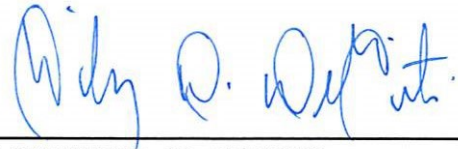
The case file shows no timely objection or request for an extension of time, even though Plaintiff was expressly informed of his right to object, the procedure for doing so, and the firm waiver rule. The docket instead shows that the Clerk's mailing of the Report to Plaintiff was returned as undeliverable [Doc. No. 14] with a notation indicating Plaintiff is no longer located at his address of record. However, Plaintiff is responsible for giving notice of any change of address, and "[p]apers sent by the court will be deemed delivered if sent to the last known address given to the court." *See* LCvR5.4(a); *see also Theede v. U.S. Dep't of Labor*, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (pro se plaintiff who failed to provide a change of address waived right to review by failing to timely object to R&R).

Therefore, the Court finds that Plaintiff has waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons ably explained by Judge Mitchell, the Court finds that this action should be dismissed without prejudice.¹

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 13] is **ADOPTED** in its entirety. This action is **DISMISSED** without prejudice to refiling. A separate judgment of dismissal shall be entered.

IT IS FURTHER ORDERED that all pending motions [Doc. Nos. 5, 8, 10, 11] are **DENIED** as moot.

IT IS SO ORDERED this 6th day of June, 2022.



TIMOTHY D. DeGIUSTI
Chief United States District Judge

¹ Judge Mitchell specifically discusses only two defendants named in the original complaint [Doc. No. 1]. The amended complaint [Doc. No. 7] lists additional defendants identified as a court clerk and a jail administrator. However, the deficiencies identified by Judge Mitchell would apply to these defendants as well. Plaintiff's pleadings fail to satisfy Rule 8(a) and pray for relief that is unavailable in this action.